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Attorney or Party Name, Address, Telephone, FAX Numbers, and California State Bar Number Hydee J. Mulichak BARRY GARDNER & KINCANNON 4400 MacArthur Boulevard #700 Newport Beach, CA 92660 949/851-9111 949/851-3935		COURT USE ONLY  04 SEP 27 PM 1:01 CLERK OF COURT CENTRAL DISTRICT OF CALIFORNIA BY <u>CC</u> DEPUTY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA		
In re: HOANG VUONG  Debtor(s).		CASE NO.: RS03-25504-PC

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: October 18, 2004	Time: 9:00 a.m.
Location: Courtroom 303, United States Bankruptcy Court, 3420 Twelfth Street, Riverside, CA 92501	

Type of Sale: ☒ Public: ☐ Private: Last date to file objections: 10/04/04

Description of Property to be Sold: Real Property commonly known as 14240 Ivy Avenue, Fontana, California 92335

Terms and Conditions of Sale: As is, where is, without representations or warranties, and free and clear of liens

Proposed Sale Price: \$255,000.00

Overbid Procedure (If Any): Initial minimum net overbid of \$260,000.00, and in increments of \$1,000.00 thereafter

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):  
Richard Halderman, Jr.  
Lido Pacific Asset Management  
4000 Birch Street #113  
Newport Beach, CA 92660  
Phone 949/474-0600; Fax 949/474-0549

Date: September 23, 2004

Hydee J. Mulichak, Bar No. 158779  
Jeffrey B. Gardner, Bar No. 115648  
BARRY, GARDNER & KINCANNON  
A Professional Corporation  
4400 MacArthur Boulevard, Suite 700  
Newport Beach, California 92660  
Tel: (949) 851-9111 Fax: (949) 851-3935

Attorneys for Sandra Bendon,  
Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

In re	)	Case No. RS03-25504-PC
	)	
HOANG VUONG,	)	Chapter 7
	)	
Debtor.	)	<b>NOTICE OF MOTION FOR ORDER</b>
	)	<b>APPROVING: (1) SALE OF THE</b>
	)	<b>ESTATE'S RIGHT, TITLE AND</b>
	)	<b>INTEREST IN REAL PROPERTY OF</b>
	)	<b>THE ESTATE AS IS, WHERE IS,</b>
	)	<b>WITHOUT WARRANTIES AND</b>
	)	<b>REPRESENTATIONS BY AUCTION,</b>
	)	<b>FREE AND CLEAR OF LIENS, (2)</b>
	)	<b>OVERBID PROCEDURES, (3)</b>
	)	<b>DISTRIBUTION OF SALE PROCEEDS</b>
	)	<b>AND PAYMENT OF REAL ESTATE</b>
	)	<b>COMMISSIONS, AND (4) ORDERING</b>
	)	<b>TURNOVER OF PROPERTY OF THE</b>
	)	<b>ESTATE</b>
	)	
	)	Date: October 18, 2004
	)	Time: 9:00 a.m.
	)	Place: Courtroom 303

TO ALL INTERESTED PARTIES HEREIN:

PLEASE TAKE NOTICE that on October 18, 2004 at 9:00 a.m., in Courtroom 303 of the above-entitled Court located at 3420 Twelfth Street, Riverside, California 92501, Sandra Bendon, the duly appointed, qualified and acting Chapter 7 Trustee ("Trustee"), of the above-entitled estate ("Estate"), will move the Court for an

Order Approving: (1) Sale of the Estate's Right, Title and Interest in Real Property of the Estate as Is, Where Is, Without Warranties and Representations by Auction, Free and Clear of Liens, (2) Overbid Procedures, (3) Distribution of Sale Proceeds and Payment of Real Estate Commissions and (4) Ordering Turnover of Property of the Estate ("Motion").

On October 24, 2003, Hoang Vuong ("Debtor"), filed a voluntary petition under Chapter 7 of the Bankruptcy Code. Sandra Bendon is the duly appointed, qualified and acting Chapter 7 Trustee ("Trustee"), of the Debtors' bankruptcy estate ("Estate").

The Debtor indicated in his Schedule A that he was the record owner of certain real property commonly known as 14240 Ivy Avenue, Fontana, California 92335 (the "Subject Property"), listing a market value of \$190,000.00 with a first trust deed of \$127,421.00. The Debtor claimed a homestead exemption in the amount of \$75,000.00 in his Schedule C.

Subsequently, the Trustee became aware that the Subject Property was worth considerably more than reflected in the Debtor's schedules and obtained a valuation of the Subject Property in the sum of \$230,000.00 to \$240,000.00 based upon the broker's price opinion dated February 23, 2004 by Richard Halderman, Jr., the Trustee's real estate broker.

Based upon the Trustee's valuation of the Subject Property and the encumbrances thereon, the Trustee determined that there was significant equity in the Subject Property for the benefit of the estate and began the steps to try to resolve the estate's interest in the Property. On May 27, 2004, the Court entered an

order approving the Trustee's application to employ Richard Halderman, Jr. as the estate's real estate agent for the sale of the Subject Property. Pursuant to the Application for Employment, Richard Halderman, Jr. of Lido Pacific Asset Management shall receive a commission equal to six percent (6%) of the purchase price.

The Subject Property is encumbered by a first deed of trust in the approximate amount of \$127,421.00 in favor of Household Mortgage Services. The Trustee is unaware of any other liens against the Subject Property.

Based upon the substantial equity that can be realized from a sale of the Subject Property, the Trustee believes that it is in the best interests of the estate for the Subject Property to be sold on the terms set forth below.

The Trustee has received an offer to purchase the Subject Property from Hao Tang ("Buyer") for the sum of \$255,000.00.

The Buyer has deposited \$5,000.00 with the Trustee as an earnest money deposit for the purchase of the Subject Property. A summary of the terms of the sale to Buyer as provided by the Purchase Agreement are as follows:

1. Property to be Sold: The property to be sold includes the estate's right, title and interest in the real property located at 14240 Ivy Avenue, Fontana, California 92335, free and clear of liens, as is, where is, without warranties and representations.

2. Purchase Price: The Purchase Price shall be \$255,000.00.

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1        3.    Escrow Agent:   The Escrow Agent will be Central Escrow.

2        4.    Title Company:   The Title Company will be Orange Coast  
3 Title.

4        5.    Closing of Escrow:   Escrow for the purchase and sale of  
5 the Subject Property will close within 10 days after entry of an  
6 order approving the purchase and sale, unless otherwise agreed by  
7 the Trustee at her sole discretion.

8        6.    Real Estate Broker's Fee:   Broker's commission of  
9 Richard Halderman, Jr. of Lido Pacific Asset Management shall be  
10 six percent (6%) of the Purchase Price which shall be paid out of  
11 the sale proceeds through escrow.   In no event will the  
12 commission exceed 6% and Mr. Halderman has agreed to share his  
13 commission with the broker for the ultimate buyer in the amount  
14 of three percent (3%) of the Purchase Price.

15       7.    Sale Subject to Overbid and Court Approval: This  
16 transaction is expressly subject to overbid and court approval of  
17 the United States Bankruptcy Court for the Central District of  
18 California, Riverside Division, Honorable Peter H. Carroll  
19 presiding.

20       The terms of the overbid procedures include the following:

21       1.    The auction of the Subject Property will occur on the  
22 date of the hearing on October 18, 2004 at 9:00 a.m. in or in the  
23 vicinity of Courtroom 303 of the Bankruptcy Court, conducted by  
24 the Trustee and subject to the approval of the Bankruptcy Court.

25       2.    The initial minimum net overbid shall be \$260,000.00.

26       3.    Each additional overbid shall be in a minimum of  
27 increments of \$1,000.00.

28    /   /   /

4. Each bid must be all cash, non-contingent, and on the same terms and conditions, other than price, as those proposed in the current Purchase Agreement. The successful bidder will be bound to the Purchase Agreement submitted with this Motion, except the following terms will be altered to provide for the overbidder: name of buyer, amount of purchase price, amount of deposit, name of buyer's broker, and the dollar amount brokers will receive in commissions. All remaining terms in the Purchase Agreement will be in full force and effect.

5. Any person wishing to overbid on the Subject Property must be personally present at the auction. Furthermore, no later than 5:00 p.m. three business days prior to the auction, such potential overbidder must further present certified funds in the amount of \$6,000.00 payable to Sandra Bendon, Chapter 7 Trustee, and must have the ability to pay the remainder of the sales price within ten (10) days from the date of the entry of the order of the Court approving the sale.

6. Any person wishing to overbid on the Subject Property must provide to the Trustee and her counsel, no later than 5:00 p.m. three business days prior to the auction, written evidence of financial worthiness showing the ability to pay for the Subject Property, either through proof of available cash or through written credit approval. The Trustee shall be authorized by the potential overbidders to verify the information provided.

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1        7.     In the event there are no overbids received by the  
2 Trustee at the auction, Buyer shall, subject to Court approval,  
3 be deemed the successful bidder, and the estate's interest in the  
4 Subject Property shall be sold to him for the sum of \$255,000.00,  
5 as is, where is, without representations or warranties.

6        8.     In the event Buyer is not deemed the successful  
7 bidder, the Trustee releases any rights to the \$5,000.00 deposit  
8 which will be promptly refunded.

9        The Trustee further seeks authority to consummate the sale  
10 free and clear of liens and interests, with the liens to attach  
11 to the proceeds of sale pursuant to the provisions of 11 U.S.C.  
12 §363(f). The Trustee seeks such authorization, so that the  
13 escrow may close even if an unanticipated demand of questionable  
14 legitimacy is placed into the escrow. If the sale is free and  
15 clear of liens and interests, the escrow may close and this  
16 Honorable Court may later determine the legitimacy of the demand  
17 placed into escrow.

18        The Debtor's Schedules reflect that the Subject Property is  
19 subject to a first deed of trust with an approximate balance of  
20 \$127,421.00 in favor of Household Mortgage Services. The Trustee  
21 knows of no other liens against the Subject Property.

22        Subject to the foregoing, the Trustee further seeks  
23 authority for the distribution of sale proceeds as follows:

24        (1) For normal closing costs;

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(2) To Household Mortgage Services or its principal, successor or assign, the holder of the first deed of trust against the Subject Property, estimated at approximately \$127,421.00, pursuant to its demand into escrow, and subject to the Trustee's review and approval prior to distribution;

(3) For delinquent property taxes, if any, on the Subject Property;

(4) To Richard Halderman, Jr. of Lido Pacific Asset Management, the agent for the estate, a commission of six percent (6%) of the Purchase Price to be shared as set forth herein;

(5) All remaining sums from the sale of the Subject Property after those paid from escrow as set forth above ("Sales Proceeds"), shall be forwarded to the Trustee for the benefit of the Estate.

The Trustee further requests that an order for immediate turnover be entered at the time of the hearing on this Motion if the Debtor has not vacated the Subject Property by October 13, 2004.

PLEASE TAKE FURTHER NOTICE that more information is contained in the Motion. The Motion is being filed with the Clerk of the above-entitled Court and may be reviewed Monday through Friday from 9:00 a.m. to 4:00 p.m. at the United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, California 92501.

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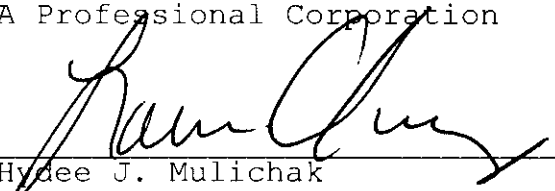
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1 PLEASE TAKE FURTHER NOTICE that pursuant to Local Bankruptcy  
2 Rule 9013-1(1)(g), opposition, if any, to the Motion must be in  
3 writing, filed with the Court and served upon all appropriate  
4 parties, including Trustee's counsel not later than 14 days prior  
5 to the hearing on the Motion. Failure to timely file and serve  
6 objections may be deemed a waiver of the same.

7 DATED: September 23, 2004

BARRY, GARDNER & KINCANNON  
A Professional Corporation

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Hydee J. Mulichak  
Laurie Chavez  
11 Attorneys for Sandra Bendon,  
12 Chapter 7 Trustee

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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 4400 MacArthur Boulevard, Suite 700, Newport Beach, California 92660.

On September 24, 2004, I served the foregoing document described as **NOTICE OF MOTION FOR ORDER APPROVING: (1) SALE OF THE ESTATE'S RIGHT, TITLE AND INTEREST IN REAL PROPERTY OF THE ESTATE AS IS, WHERE IS WITHOUT WARRANTIES AND REPRESENTATIONS BY AUCTION, FREE AND CLEAR OF LIENS, (2) OVERBID PROCEDURES, (3) DISTRIBUTION OF SALE PROCEEDS AND PAYMENT OF REAL ESTATE COMMISSIONS, AND (4) ORDERING TURNOVER OF PROPERTY OF THE ESTATE** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

/X/ [BY MAIL] I am readily familiar with the firm's business practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

/X/ [FEDERAL] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 24, 2004, at Newport Beach, California.



Gretchen Crumpacker

In re Vuong  
Bankruptcy Case No. RS03-25504-PC

**SERVICE LIST**

Debtor

Hoang Vuong  
14240 Ivy Avenue  
Fontana, CA 92335

Attorney for Debtor

Dinh Dinh Tran  
11770 East Warner Avenue #214  
Fountain Valley, CA 92708

Chapter 7 Trustee

Sandra Bendon  
15411 Red Hill Avenue #A  
Tustin, CA 92780

U.S. Trustee

United States Trustee  
3685 Main Street #300  
Riverside, CA 92501

Lienholder

**VIA CERTIFIED MAIL**

HMS  
363 Grand Regency Boulevard  
Brandon, FL 33510

Broker for Trustee

Richard Halderman, Jr.  
4000 Birch Street #113  
Newport Beach, CA 92660

Broker for Buyer

Phuoc Huynh  
HP Realty  
723 North Indian Hill Boulevard  
Pomona, CA 91767

Broker for Potential Overbidder

Andy Nguyen  
T&A Realty & Mortgage  
4701 Holt Boulevard  
Montclair, CA 91763

All Creditors

AT&T Universal Card  
P.O. Box 44167  
Jacksonville, FL 32231

Bank of America  
P.O. Box 2930  
Phoenix, AZ 85062

Bank of America Visa  
P.O. Box 2930  
Phoenix, AZ 85062

Capital One Visa  
P.O. Box 85064  
Glen Allen, VA 23058

Citibank Platinum  
P.O. Box 6408  
The Lakes, NV 88901

Discover  
P.O. Box 15316  
Wilmington, DE 19850

FCNB Spiegel  
9300 S.W. Gemini Drive  
Beaverton, OR 97008

Hunt Henrique's  
151 Bernal Road #8  
San Jose, CA 95119

MBNA America Bank N.A.  
P.O. Box 15026  
Wilmington, DE 19850

Monogram Bank CC  
P.O. Box 3601  
Dayton, OH 45401

Wachovia Mastercard  
P.O. Box 22058  
Tulsa, OK 74121

Walmart  
P.O. Box 103042  
Roswell, GA 30076

1	Wells Fargo	Worlds Foremost Bank
	P.O. Box 522	P.O. Box 82608
2	Des Moines, IA 50302	Lincoln, NE 68521
3	First USA	GM Mastercard
	P.O. Box 8650	P.O. Box 80082
4	Wilmington, DE 19899	Salinas, CA 93912
5	HMS	Wells Fargo Card Services
	363 Grand Regency Boulevard	P.O. Box 9210
6	Brandon, FL 33510	Des Moines, IA 50306
7	Discover Bank	Monogram Credit Card Bank of
	Discover Financial Services	Georgia
8	P.O. Box 8003	dba Wal-Mart
	Hilliard, OH 43026	c/o Recovery Management
9		25 S.E. 2 <sup>nd</sup> Avenue #1120
		Miami, FL 33131
10	MBNA America Bank N.A.	Employment Development Department
11	P.O. Box 15166 MS 1423	Bankruptcy Group MIC92E
	Wilmington, DE 19850	P.O. Box 826880
12		Sacramento, CA 94280-0001
13	Franchise Tax Board	
	Attn: Bankruptcy	
14	P.O. Box 2952	
	Sacramento, CA 95812-2952	
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